

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

| | | |
|--|--------------------------------------|---|
| IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESale PRICE LITIGATION |))))) | MDL NO. 1456 Civil Action No. 01-12257-PBS Subcategory No. 07-12141-PBS Subcategory No. 03-10643-PBS |
| THIS DOCUMENT RELATES TO: <i>State of Iowa v. Abbott Laboratories, et al.</i> <i>and</i> <i>The City of New York, et al. v. Abbott Laboratories, Inc., et al.</i> |)))))))) | Judge Patti B. Saris |

JOINT MOTION TO EXTEND TIME TO COMPLETE EXPERT DISCOVERY

The parties jointly move this Court for an order extending the time to allow for the deposition of plaintiffs' expert Jeffrey J. Leitzinger, and to make corresponding changes to the remaining expert discovery schedule. In support of their motion, the parties state as follows:

1. The same defendants remain in the Iowa and the consolidated New York Counties cases.
2. Plaintiffs' counsel is the same in both cases.
3. On January 31, 2011, the parties filed a Renewed Joint Motion to Extend Deadline for Taking of Certain Fact Witness Depositions and to Coordinate Expert Discovery (the "Fact Deadline and Expert Coordination Motion"), which requested additional time to complete timely-noticed fact discovery and to coordinate the Iowa and New York Counties' expert discovery schedules.

4. Since the filing of the Fact Deadline and Expert Coordination Motion, the parties have worked together to complete timely-noticed fact witness depositions in the Iowa and New York Counties cases. The parties also have coordinated expert discovery between the Iowa and New York Counties cases, including deposing plaintiffs' expert Stephen Schondelmeyer on March 9-11, 2011 in both cases.

5. The deposition of plaintiffs' damages expert, Dr. Jeffrey J. Leitzinger, has not been completed, however. Dr. Leitzinger's deposition was adjourned in early February 2011 because of a settlement involving the defendant that was scheduled to take the lead in his deposition. Dr. Leitzinger's deposition was adjourned again in mid-March because, in preparing for his deposition, Dr. Leitzinger realized that his report contained certain errors and/or omissions. In addition, Dr. Leitzinger was asked by counsel to prepare a supplemental report as to defendant Par. Dr. Leitzinger prepared supplemental and revised reports, together with corresponding errata sheets, that were served on April 1, 2011. Thereafter, Dr. Leitzinger's first available date for deposition was May 10-12, 2011.

6. On April 18, 2011 the Court granted the Fact Deadline and Expert Coordination Motion, and entered the parties' proposed order. The case management order entered on April 18, 2011 ("CMO") requires depositions of plaintiffs' experts to be completed by March 17, 2011; defendants' expert reports to be served by April 14, 2011; and depositions of defendants' experts to be completed by May 31, 2011. The CMO also provided that these dates could be extended by 30 days, by agreement of the parties without further order of the Court.

7. Because of the two adjournments of Dr. Leitzinger's deposition and his availability due to other commitments, the parties were unable to complete expert discovery in accordance with the above deadlines, but have agreed to the following schedule to complete expert discovery in these cases:

- a. Deposition of Dr. Leitzinger shall take place on May 10-12, 2011;
- b. Defendants shall serve expert reports and other materials in compliance with Fed. R. Civ. P. 26(a)(2)(B) fifteen days after the conclusion of Dr. Leitzinger's deposition (by May 27, 2011);
- c. Depositions of defendants' experts shall be completed by July 15, 2011.

WHEREFORE, the parties jointly move this Court to modify the established pre-trial dates to those shown above and on the attached proposed Cases Management Order.

Dated: May 2, 2011

Respectfully submitted,

By: /s/ Joanne M. Cicala
Joanne M. Cicala
Kirby McInerney LLP
825 Third Avenue
New York, NY 10022
(212) 371-6600

Counsel for the State of Iowa, the City of New York and all New York Counties except Nassau and Orange

By: /s/ J.P. Ellison
J.P. Ellison
HYMAN, PHELPS & McNAMARA, P.C.
700 Thirteenth Street, NW, Suite 1200
Washington, DC 20005
(202) 737-4294

Counsel for Defendant Purepac Pharmaceutical Co. on behalf of all defendants

CERTIFICATE OF SERVICE

I hereby certify that on May 2, 2011, I caused a true and correct copy of the foregoing Joint Motion To Extend Expert Discovery Deadlines to be served on counsel of record for each party through the Court's Electronic Case Filing System and via LexisNexis File & Serve.

/s/ Kathryn B. Allen
Kathryn B. Allen
Kirby McInerney LLP
825 Third Avenue
New York, NY 10022
(212) 371-6600